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A TRIAL FOR WITCHCRAFT SIX HUNDRED YEARS AGO

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Edward of Carnarvon, the Second Plantagenet King of that name, was a tall, handsome and well-built man—an athlete and a mechanic, a huntsman and a musician. He had many charming qualities, but he was not fitted for the office of King of England in the stern days of the 14th century.

His favourite companions were not such as a monarch should choose; and to them—men, some of them, of low birth and all without judgment—he gave up much of the government of his kingdom.

Piers Gaveston, a Gascon whom he had created Earl of Cornwall, was got rid of by murder after long resisting the English nobility; but the Despensers, father and son, for long retained their place as royal favourites.

The rapacity of those around Edward had been notorious from his boyhood; even in his father's life-time, and when he was only ten years old, but with a separate establishment, "the townsfolk of Dunstable bitterly complained of his attendants' rapacity and violence." (Ann. Dunst. p. 392).²

Gaveston's conduct was equally bad and equally notorious; and the Despensers did not fall behind him. It is, however, not unlikely that the favourites were blamed for much that the King should himself answer for.

The following story will give one curious result of the ill-will which flowed from the greed of the Despensers and their master.

In the eighteenth year of King Edward II on Wednesday in the Vigil of All Saints, 1324,³ Robert Marshal of Leicester, appeared before Simon Croyser, Coroner of the Hospital, and lodged an appeal against John of Nottingham and many others. The proceeding of approvement was well known in the criminal law of the period and for a long time after: one who acknowledged his own guilt, in order to escape punishment for a felony, "appealed," that is, he accused another of being an accomplice. It would not do simply to say that

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²See Dict. Nat. Biog., vol. 17, p. 38. A fairly full and quite accurate account is given of Edward II in this work. Cf. Enc. Brit., *sub voc.*

³The facts are taken from Parl. Writs, vol. II, div. II, p. 269, reprinted in an interesting publication of the Camden Society of London: "A / Contemporary Narrative / of the / Proceedings / against / Dame Alice Kyteler / Prosecuted for Sorcery in 1324 / etc., etc., / London / etc., etc., etc., / MDCCXLIII."

The Appeal is in Anglo-French, the remainder of the proceedings in Latin, mediaeval but fairly good. The translation is my own and is almost literal.

the other had committed a like offense; he had to be charged with taking part with the appellor (probator) in the crime confessed by him.⁴

The charge in this instance was an extraordinary one. Robert said that he had been living with John of Nottingham in Coventry; that John was a "nigromancer" or sorcerer; that Richard "le Latoner"⁵ and some twenty-five others whom he (Robert) named, had, on the Wednesday next before St. Nicholas' Day in the previous year, (1323) come to see John and him. He said further that they wished to know if their business would be kept secret; for, if so, John and Robert would have much profit from it. On being assured by both that they would not disclose it to anyone, the visitors made known what they wanted.

They said that they were so oppressed by the Prior of Coventry and by the demands for maintenance⁶ which were made upon the Prior by the King, Hugh le Despenser, Earl of Winchester,⁷ and Hugh

⁴The Appeal must be in proper form. If the appellor simply charged the appellee with a similar crime, he having confessed his own guilt and not bringing forward an accomplice to suffer for it, would be promptly hanged. The accused would then be admitted to bail to answer the charge if any preferred it, or if he could not find bail, he might adjure the Realm. A most interesting case of the kind is to be found in Maitland's "Pleas of the Crown for the County of Gloucester," p. 64.

Blakstone, Comm., IV, p. 330, puts it accurately: "A person indicted of treason or felony . . . doth confess the fact before plea pleaded and appeals or accuses others his accomplices in the same crime in order to obtain his pardon."

It does not appear how Robert le Mareschal de Leycestre came to be charged, nor why he should appeal in the Court of the Coroner of the Hospital,—an officer whose jurisdiction was very limited in area and extent.

⁵Richard the Latoner or Lattener, a maker of or worker in latten, a mixed metal of yellow colour, much like brass or identical with it. "Sam Slick's" joke on Latten (Latin) will occur to everyone.

⁶"Maintenance"—the practice of kings coming with their retinue to visit a subject, balancing the fearful expense with the great honour, was well known and long survived. Apparently the King, with the Despensers, was staying with the Prior at Coventry, and the Prior had to squeeze his tenants to support the expense to which he was put. The Despensers, moreover, were openly accused by the nobility of extortion; they made no difficulty of taking a subject's goods with or without colour of right; and colour of right there always was for an officer of the King to take what he wanted from a subject for the King's use (especially on a Royal Progress), paying for it the price the officer thought fit. Old abuses die hard, but "purveyance" is long dead.

See Tomlins' Law. Dict., sub voc. "Pourveyance"; Black Comm., I, 287, IV, 116, 424, 439.

⁷Hugh le Despenser (the elder) was the son of the Justiciar of England with the same name. Born in 1262, he became a favourite of King Edward II, especially after the death of Piers Gaveston. He was executed as a traitor at Bristol in 1326. In the original he is called "Counte de Wyncestre."

le Despenser the younger⁸ that they could not live. They asked John if for what they would give him he would undertake to kill the King, the two Despensers, the Prior and others they named, by his necromancy and his arts. He said that he would. Thereupon an agreement⁹ was entered into that John should be paid £20 sterling¹⁰ and have his support in any religious house he might select in England; that Robert should be paid £15 sterling for assisting "in the felonies aforesaid"—of which, on the Sunday next after St. Nicholas' Day, John should be paid eleven marks¹¹ and Robert £4 by the hands of John, son of Hugh of Merrington¹² and John le Redeclerk, at the house of Richard le Latoner. They were also to receive seven pounds of wax and two ells of canvas,¹³ of which John was to make seven waxen images. One of these was to be of the King, crowned; the second of the Earl of Winchester; the third of Master Hugh, his son; the fourth of the Prior of Coventry; the fifth of the Cellarer; the sixth of Nichol Crumpe, the Prior's Seneschal; and the seventh of one Richard of Sowe.¹⁴ It was agreed that an experiment should be made on Richard of Sowe and the image made of him, to see whether or not the other images were certain to produce the desired effect.

John and Richard, on the succeeding Monday, with the knowledge and consent of their customers, began to exercise their mystery in an old house about half a league from Coventry, below Shortley Park, where they remained over their work till the Saturday next after Ascension Day.

When they were in the said old house on Friday next before the feast of the Holy Cross, about midnight, John gave Robert a leaden pin with a sharp point and told him to thrust it a depth of two inches into the forehead of the image of Richard of Sowe, in order to test the powers of the other images. He did so. The following morning John sent Robert to the house of Richard to see in what condition he was,

⁸The younger Hugh le Despenser became a baron, shared his father's elevation, and was executed at Hereford about a month after his father's death. They were both rapacious, insolent, violent, disregardful of law and of everything but themselves and their King. In the original he is called "Monsieur Hugh le Despenser le filz."

⁹"Et sur ceo la fesoient covenant ove luy;" "and thereupon they made a covenant with him."

¹⁰"XX.li. d'esterlings"; "£20 of the Easterlings." The derivation of "Sterling" is well known; here we have the original.

¹¹The mark 13/4: 11 marks equals £7 6s 8d.

¹²Merrington is a parish in Durham.

¹³"Ells" "aunes." An English ell was 45 inches. "Canvas," "canevace," "canabasium," from Latin "canabis," hemp, was a linen or hempen cloth.

¹⁴"De Sowe." The Sowe is a small river in Warwickshire, running south-east to the Avon, and Sowe is a parish on the river.

and he found him "braying" and crying "harrou,"¹⁵ not being able to recognize anyone and having lost his memory. Richard remained in the same condition until the Sunday before Ascension, when John drew out the pin and placed it in the heart of the image, where it remained until the Wednesday following, when Richard died.

The trial or experiment¹⁶ made on Richard in this way was with the knowledge and consent of Richard le Latoner and the others named.

On November 9th, 1324, a writ of certiorari was issued from the Court of King's Bench to the Coroners of the Hospital, under which the said appeal was removed into the King's Bench.

A writ was thereupon issued to the Sheriff of Warwickshire to arrest and keep safe, etc., John of Nottingham, Richard le Latoner and the others named, if they should be found in his bailiwick; and to have their bodies before the Court in Hilary Term. John was arrested under a special warrant and committed to the custody of the Marshal of the King's Bench, while the Sheriff of Warwick returned that the others were not to be found in his bailiwick.

But all of them, with the exception of three who will be spoken of separately, appeared—John brought in by the Marshal, the others voluntarily rendering themselves into custody. The appellor or prolator also appeared. Since all were present, the appellor was formally asked if he desired to prosecute his appeal, and "dicit quod sic,"¹⁷ he answered in the affirmative. The accused appellees denied the charge *in toto*, and "*de bono et malo ponunt se super patriam*"—for well or ill put themselves upon the country.¹⁸ A *venire facias* was awarded to the Sheriff of Warwick to have a jury for a trial at Bar in Easter Term,¹⁹ and in the meantime appellor and appellees were remitted to the Marshal's custody.

¹⁵"Bryaunt et criaunt 'harrou'!"—"harrou" or "harrow" is the same as "haro," the Norman "hue and cry." It will be seen that the sorcerers carried out the rule of the mediaeval physician, "*flat experimentum in corpore vili.*"

¹⁶"La proeve faite du dit Richard."

¹⁷It was the practice when anyone entered an appeal of any kind to require the appellor to give security for the prosecution of the appeal. If he could not find security, "*gaola ejus plegium*"—"the gaol his pledge"—was the rule; this was always the case when the appeal was by a confessed felon. If the appellor in an ordinary case did not desire to prosecute his appeal, he and his pledges were "*in mercy*"; i. e., were liable to be fined, and almost, if not quite always, were fined. If an appeal like this by a confessed felon was not proceeded with, the appellor was hanged out of hand.

¹⁸Our Canadian petit juries are in criminal cases told "on his arraignment he hath pleaded Not Guilty and for his trial hath put himself upon the country, which country you are." Trial by the country is trial by jury.

¹⁹The trial was to be at Bar, i. e., before all the Judges of the Court of King's Bench, and at Westminster; but it was necessary to have a jury *de visneto*, of the vicinage, to try the case, hence the ven. fac. issued to the Sheriff of Warwick.

The appellees soon found bail in London, and were released to appear "ad quindenam Paschae."

On that day all but John of Nottingham again appeared, the appellor brought in by the Marshal, the appellees appearing under the recognizances; but the case was adjourned to Hilary Term, and the Sheriff was to have twenty-four jurors "*nam milites quam alios*" of the vicinage of Coventry²⁰ to try whether the said Richard le Latoner and others were guilty of the said felonies and crimes or not. The appellor again went to the Marshal's custody; the appellees were bailed. As for John of Nottingham, the Marshal of the Court of King's Bench returned that he had died in prison.²¹

Trinity Term came around and with it appeared in Court the appellor and appellees (one had died in the meantime) and also jurors of the vicinage. One of the missing appellees, Richard Grauntpé, also came in and rendered himself to the Marshal, joining his fate with that of those who were already in Court; he also put himself upon the country.

They were all acquitted by the jury of twelve, "*de visneto de lowe*," [sic., qu. Sowe?] and accordingly discharged. The appellor was remitted to prison until the Court should advise as to his case.²² The jurors also found the death of Peter (or Piers) Baroun, one of the appellees. As to the two appellees still missing, the sheriff had command to arrest them if they should be found in his bailiwick and have them before the Court.²³

²⁰See last note. The jurors were allowed and expected to use their own knowledge.

²¹A perusal of the old records will show that a very large per cent of those imprisoned died in prison—a terrible commentary on the state of the gaols.

²²He must needs be sentenced on his own confession, probably to be burnt at the stake.

But we do not know the whole story. It may be that someone in authority who could assure the appellor of personal safety wanted to "get at" some of those appealed, and that this charge was an outcome of a plot.

The circumstantial account of the suffering and death of the unfortunate Richard of Sowe can be duplicated over and over again in the criminal trials in England and Scotland.

²³It is not improbable that the absence of these two was made a pretext for delaying sentence on Robert, who would be held as a witness against them; and it is far from impossible that their absence was part of the plot. Robert may have been detained till the matter was forgotten and then released.

[NOTE: Since the above was written I have seen an account of this extraordinary case in W. H. Davenport Adams' "Witch, Warlock and Magician," J. W. Bouton, New York, 1889. The account is very short and is not accurate, e. g. it is said that "the trial, after several adjournments, fell to the ground." We have seen that the trial was pressed to a conclusion, but that the prisoners were acquitted.—W. R. R.]